

S P E E C H

OF

HON. H. WINTER DAVIS,

OF MARYLAND,

ON

THE BILL TO GUARANTEE REPUBLICAN GOVERNMENTS IN CERTAIN STATES.

DELIVERED IN THE HOUSE OF REPRESENTATIVES, MARCH 22, 1864.

MR. SPEAKER: The bill which I am directed by the Committee on the Rebellious States to report is one which provides for the restoration of civil government in States whose governments have been overthrown. It prescribes such conditions as will secure not merely civil government to the people of the rebellious States, but will also secure to the people of the United States permanent peace after the suppression of the rebellion.

The bill challenges the support of all who consider slavery the cause of the rebellion, and that in it the embers of rebellion will always smoulder; of those who think that freedom and permanent peace are inseparable, and who are determined, so far as their constitutional authority will allow them, to secure these fruits by adequate legislation.

The vote of gentlemen upon this measure will be regarded by the country with no ordinary interest. Their vote will be taken to express their opinion on the necessity of ending slavery with the rebellion, and their willingness to assume the responsibility of adopting the legislative measures without which that result cannot be assured, and may wholly fail of accomplishment. Their vote will be held to show whether they think the measure now proposed, or any which may be moved as a substitute, is an adequate and proper measure to accomplish that purpose. It is entitled to the support of all gentlemen upon this side of the House, whatever their views may be of the nature of the rebellion, and the relation in which it has placed the people and States in rebellion towards the United States, not less of those who think that the rebellion has placed the citizens of the rebel States beyond the protection of the Constitution, and that Congress, therefore, has supreme power over them as conquered enemies, than of that other class who think that they have not ceased to be citizens and States of the United States, though incapable of exercising political privileges under the Constitution, but that Congress is charged with a high political power by the Constitution to guaranty republican governments in the States, and that this is the proper time and the proper mode of exercising it. It is also entitled to the favorable consideration of gentlemen upon the other side of the House, who honestly and deliberately express their judgment that slavery is dead. To them it puts the question whether it is not advisable to bury it out of our sight that its ghost may no longer stalk abroad to frighten us from our propriety.

It does not address itself to that class of gentlemen upon the other side of the House, if there be any, nor to that class of the people of the country who look for political alliance to the men who head the rebellion in the South, and say to them let us

"Once more  
Erect the standard there of ancient night,  
Yours be the advantage all, mine the revenge."

It purports, sir, not to exercise a revolutionary authority, but to be an execution of the Constitution of the United States, of the fourth section of the fourth article of that Constitution, which not merely confers the power upon Congress, but imposes upon Congress

the duty of guaranteeing to every State in this Union a republican form of government. That clause vests in the Congress of the United States a plenary, supreme, unlimited political jurisdiction, paramount over courts, subject only to the judgment of the people of the United States, embracing within its scope every legislative measure necessary and proper to make it effectual; and what is necessary and proper the Constitution refers, in the first place, to our judgment, subject to no revision but that of the people. It recognizes no other tribunal. It recognizes the judgment of no court. It refers to no authority except the judgment and will of the majority of Congress, and of the people on that judgment, if any appeal from it. It is one of that class of plenary powers of a political character conferred on Congress by the Constitution, such as the authority to admit new States into the Union, the authority to make rules and regulations for the government of the Territories of the United States. With reference to that class of cases the Supreme Court, renouncing all right to judge on political questions, has said that these sections vested in the Congress of the United States plenary power over the subject-matters mentioned, subject only to the limitations contained in those sections. In the section to which I refer there is, and almost from the very nature of the case there can be, no limitation. It is intended to meet all the emergencies of the national life. It is intended to apply to events which human imagination could scarcely have pictured. And yet the great wisdom of the framers of the Constitution has in no particular been rendered more remarkably apparent—although their imagination could scarcely have reached the belief in the possibility of events that are to us familiar as household words—than in their having laid by, in the arsenal of the Constitution, the weapons to deal with this great danger.

What is the nature of this case with which we have to deal—the evil we must remedy, the danger we must avert? In other words, what is that monster of political wrong which is called Secession? It is not, Mr. Speaker, domestic violence, within the meaning of that clause of the Constitution, for the violence was the act of the people of the States through their Government, and was the offspring of their free and unforced will. It is not invasion, in the meaning of the Constitution, for no State has been invaded against the will of the government of the State by any power except the United States marching to overthrow the usurpers of its territory. It is, therefore, the act of the people of the States, carrying with it all the consequences of such an act. And therefore it must be either a legal revolution which makes them independent, and makes of the United States a foreign country, or it is a usurpation against the authority of the United States, the erection of governments which do not recognize the Constitution of the United States, which the Constitution does not recognize, and, therefore, not republican governments of the States in rebellion. The latter is the view which all parties take of it. I do not understand that any gentleman on the other side of the House says that any rebel government which does not recognize the Constitution of the United States, and which is not recognized by Congress, is a State government within the meaning of the Constitution. Still less can it be said that there is a State government, republican or unrepugnant, in the State of Tennessee, where there is no government of any kind, no civil authority, no organized form of administration except that represented by the flag of the United States, obeying the will, and under the orders of the military officer in command. It is the language of the President of the United States in every proclamation, of Congress in every law on the statute book, of both Houses in their forms of proceeding, and of the courts of the United States in their administration of the law. It is the result of every principle of law, of every suggestion of political philosophy, that there can be no republican government within the limits of the United States that does not recognize, but does repudiate, the Constitution, and which the President and the Congress of the United States do not, on their part, recognize. Those that are here represented are the only governments existing within the limits of the United States. Those that are not here represented are not governments of the States, republican under the Constitution. And if they be not, then they are military usurpations, inaugurated as the permanent governments of the States, contrary to the supreme law of the land, arrayed in arms against the Government of the United States; and it is the duty, the first and highest duty, of the Government to suppress and expel them. Congress must either expel or recognize and support them. If it do not guarantee them it is bound to expel them; and they who are not ready to suppress them are bound to recognize them.

The Supreme Court of the United States, in declining jurisdiction of political questions such as these, in the famous Rhode Island cases, declared by the mouth of Chief Justice Taney, in the Presidency of John Tyler, during the Southern domination, in support of the acts of John Tyler, that a military government, established as the permanent government of a State, is not a republican government in the meaning of the Constitution, and that it is the duty of Congress to suppress it. That duty Congress is now executing by its armies. He further said in that case that it is the exclusive prerogative of Congress—of Congress, and not of the President—to determine what is and what is not the estab-

lished government of the State; and to come to that conclusion it must judge of what is and what is not a republican government, and its judgment is conclusive on the Supreme Court, which cannot judge of the fact for itself, but accepts the fact declared by the political department of the Government.

We are now engaged in suppressing a military usurpation of the authority of the State government. When that shall have been accomplished, there will be no form of State authority in existence which Congress can recognize. Our success will be the overthrow of *all* semblance of government in the rebel States. The Government of the United States is then, in fact, the *only* government existing in those States, and it is there charged to guaranty them republican governments.

What jurisdiction does the duty of guaranteeing a republican government confer, under such circumstances, upon Congress? What right does it give? What laws may it pass? What objects may it accomplish? What conditions may it insist upon, and what judgment may it exercise in determining what it will do? The duty of guaranteeing carries with it the right to pass all laws necessary and proper to guaranty. The duty of guaranteeing means the duty to accomplish the result. It means that the republican government shall exist. It means that every opposition to republican government shall be put down. It means that everything inconsistent with the permanent continuance of republican government shall be weeded out. It places in the hands of Congress the right to say what is and what is not, with all the light of experience and all the lessons of the past, inconsistent, in its judgment, with the permanent continuance of republican government; and if, in its judgment, any form of policy is radically and inherently inconsistent with the permanent and enduring peace of the country, with the permanent supremacy of republican government, and it have the manliness to say so, there is no power, judicial or executive, in the United States, that can even question this judgment but the PEOPLE; and they can do it only by sending other representatives here to undo our work. The very language of the Constitution and the necessary logic of the case involve that consequence. The denial of the right of secession means that all the territory of the United States shall remain under the jurisdiction of the Constitution. If there can be no State government which does not recognize the Constitution, and which the authorities of the United States do not recognize, then there are these alternatives, and these only: The rebel States must be governed by Congress till they submit and form a State government under the Constitution; or Congress must recognize State governments which do not recognize either Congress or the Constitution of the United States; or there must be an entire absence of *all* government in the rebel States; and that is anarchy. To recognize a government which does not recognize the Constitution is absurd, for a government is not a Constitution; and the recognition of a State government means the acknowledgment of men as governors, and legislators, and judges, actually invested with power to make laws, to judge of crimes, to convict the citizens of other States, to demand the surrender of fugitives from justice, to arm and command the militia, to require the United States to repress all opposition to its authority, and to protect it from invasion—against our own armies; whose Senators and Representatives are *entitled* to seats in Congress, and whose electoral votes must be counted in the election of the President of a Government which they disown and defy!! To accept the alternative of anarchy as the constitutional condition of a State is to assert the failure of the Constitution and the end of republican government. Until, therefore, Congress recognize a State government, organized under its auspices, there is no government in the rebel States except the authority of Congress. In the absence of all State government, the duty is imposed on Congress to provide by law to keep the peace, to administer justice, to watch over the transmission of decedents estates, to sanction marriages; in a word, to administer civil government until the people shall, under its guidance, submit to the Constitution of the United States, and, under the laws which it shall impose, and on the conditions Congress may require, reorganize a republican government for themselves, and Congress shall recognize that government.

These, therefore, are the things which are involved in the duty of Congress to guarantee a republican government to the States. But we have not yet suppressed the insurrection. We are still engaged in removing armed rebellion. Is it yet time to reorganize the State governments? or is there not an intermediate period in which sound legislative wisdom requires that the authority of Congress should take possession of and temporarily control the States now in rebellion until peace shall be restored and republican government can be established deliberately, undisturbed by the sound or fear of arms, and under the guidance of law?

What is the condition of the rebellion at this time? I do not know that I express the opinions of gentlemen in this House, but, in my judgment,

"Doubtful it stands  
As two spent swimmers, that do cling together,  
And choke their act."

Our arms have advanced deep into the regions of the rebellion; we have occupied a vast area wrested from its power; but to this day we have not expelled the rebels from *any State* they ever held.

There is no State some portion of whose territory is not pressed by rebels in arms whom we have not expelled, or whom we cannot expel. There is no portion of the rebel States where peace has been so far restored that our military power can be withdrawn for a moment without instant insurrection. There is no rebel State held now by the United States enough of whose population adheres to the Union to be entrusted with the government of the State. One tenth cannot control nine tenths. Five tenths are nowhere willing to undertake the control of the other five tenths. Nowhere does such a proportion exist willing to do so, or if willing to do so, who can safely be trusted with the great powers of a State government, carrying with it the right of taxation, the existence of courts, the appointment of officers, the command of the militia, and besides the supremacy of the internal concerns of the State, the right to participate in the Government of the United States by Representatives, Senators, and electors, appointed by their uncontrolled dictation. In West Virginia that authority exists, and has been recognized. In no other State—the only one in respect to which a doubt can exist is Tennessee—in no other State is there such a portion of territory held, or any such portion of population under our control, or any such portion of it which is in our control inspired by such sentiments towards the Government of the United States, so free from fear of the returning wave of rebel invasion, so assured of the continued supremacy of the United States that we ought to be willing to entrust them with this power. You can get a handful of men in the several States who would be glad to take the offices if protected by the troops of the United States, but you have nowhere a body of independent, loyal partisans of the United States, ready to meet the rebels in arms, ready to die for the Republic, who claim the Constitution as their birthright, count all other privileges light in comparison, and resolved at every hazard to maintain it.

The loyal masses of the South, of which we hear so much, what was their temper at the outbreak of the rebellion? what is their temper now? They did not want rebellion; they voted against secession; they acquiesced in the vote which decreed it; *they went with their State*; they were content to accept what they did not prefer but were unwilling to resist; they preferred Union with peace, but when Union and peace could not exist together, they yielded up the Union rather than make war to maintain it; and when the question was Union and war for it or disunion and war for it, they preferred war against the United States to war against the South. Whether it was that the doctrines of secession had ground themselves into the minds of men and become unconsciously the foundations upon which their thoughts rested; or that they thought the interests of slavery must necessarily be sacrificed in the event of a war and they were not willing to sacrifice it; or that the long strife on the negro question had deadened their national feeling; or that they had ceased to regard the people of the free States as fellow-citizens and the horror of joining them against their Southern brethren oppressed them like a night-mare; or the fear of making war at their own doors, and the drawing of the sword against their own friends and neighbors, or a conviction that the United States was no longer a power but a mere semblance of authority—a *Roi faineant*, whose Mayors of the Palace were merely clothing the reality of power long wielded with the forms of sovereignty—whether each or all of these were the motive, *the fact* is that after they voted against secession, they acquiesced in the judgment of their friends and fellow-citizens. It is the most astounding spectacle in history that in the Southern States with more than half of the population opposed to it, a great revolution was effected against their wishes and against their votes, without a battle, a riot or a protest, in behalf of the beneficent Government of their fathers—a revolution, whose opponents hastened to lead it, without a martyr to the cause they deserted except the nameless heroes of the mountains of Tennessee, or a confessor of the faith they had avowed—save the illustrious Petigru of South Carolina!

Doubtful of the issues of the war, exhausted by bloodshed, anxious for peace—peace and independence—there are some who will accept peace and union, but they are not men who will draw the sword for the United States, and they would be equally content with peace and independence. When the overthrow of the rebellion is an accomplished fact they will acquiesce; when there shall be neither hope nor fear of rebel supremacy they will submit to what we judge to be necessary for their good and for ours if we will peremptorily declare the conditions necessary to secure republican government. But it is the veriest child's dream to suppose that so long as this war lasts, so long as its flames blaze over the Southern country, any large portion of the southern population is willing to cast in its lot with the United States for good or evil and assume now the responsibility that they declined at the beginning of standing with us for better or worse, in ruin or in triumph.

There is no fact that we have learned from any one who has been in the South and

has come up from the darkness of that bottomless pit which indicates such repentance. There is no fact that any one has stated on authority at all reliable that any respectable proportion of the people of the Southern States now in rebellion are willing to accept any terms that even our opponents on the other side of the House are willing to offer them.

It has been repeatedly asserted — Governor Seymour, of New York, in his message, asserted—that peace could be had upon any reasonable terms. That was his *guess*; it was his wish; it was his fond, *vain* hope. In fact there is no ground for such hope, and to-day no man can stand before the American people and say that there is the least reason to suppose that any public man in the South has declared himself willing to consider peace on any conditions but that of independence.

What, then, are we to do with the population in these States? To make “confusion worse confounded” by erecting by the side of the hostile State government a new State government on the shifting sands of that whirlpool, to be supported by us while we are there and to turn its power against us when we are driven out? That would be to erect a new throne where—

“Chaos umpire sits,  
And by decision more embroils the fray  
By which he reigns.”

In my judgment it is not safe to confide the vast authority of State Governments to the doubtful loyalty of the rebel States until armed rebellion shall have been trampled into the dust, until every armed rebel shall have vanished from the State, until there shall be in the South no hope of independence and no fear of subjection, until the United States is bearded by no military power and the laws can be executed by courts and sheriffs without the ever-present menace of military authority. Until we have reached that point this bill proposes that the President shall appoint a civil Governor to administer the government under the laws of the United States and the laws in force in the States respectively at the outbreak of the rebellion, subject of course to the necessities of military occupation.

It is the policy of an ancient soldier that I adopt:

“Trust none;  
For oaths are straws, men’s faiths are wafer cakes,  
And hold-fast’s the only dog, my duck  
Therefore coveto be thy counsellor.”

When military opposition shall have been suppressed, not merely paralyzed, driven into a corner, pushed back, but gone—the horrid vision of civil war vanished from the South, then call upon the people to reorganize in their own way subject to the conditions that we think essential to our permanent peace and to prevent the revival hereafter of the rebellion, a republican government in the form that the people of the United States can agree to.

Now, for that purpose, there are three modes indicated. One is to remove the cause of the war by an alteration of the Constitution of the United States prohibiting slavery everywhere within its limits. That, sir, goes to the root of the matter, and should consecrate the nation’s triumph. But there are thirty-four States—three-fourths of them would be twenty-six. I believe there are twenty-five States represented in this Congress—so that we on that basis cannot change the Constitution. It is, therefore, a condition precedent in that view of the case, that more States shall have governments organized within them. If it be assumed that the basis of calculation shall be three-fourths of the States now represented in Congress I agree to that construction of the Constitution, which I understand to be that of the chairman of the Judiciary Committee, the gentleman from Pennsylvania [Mr. STEVENS,] and not without countenance in high judicial quarters. I think it was never contemplated that the supreme political power should pass away from the Government of the United States. But that view will probably encounter as much doubt, as the bill before the House, besides involving serious delay; and under any circumstances, even upon that basis, it will be difficult to find three-fourths of the States, with New Jersey, or Kentucky, or Maryland, Delaware, or other States that might be mentioned, opposed to it under existing auspices, to adopt such a clause of the Constitution after we shall have agreed to it.

If adopted it still leaves the whole field of the civil administration of the States prior to the recognition of State Governments, all laws necessary to the ascertainment of the will of the people, and all restrictions on the return to power of the leaders of the rebellion wholly unprovided for.

The amendment of the Constitution meets my hearty approval; but it is not a remedy for the evils we must deal with.

The next plan is that inaugurated by the President of the United States in the proclamation of the 8th December, called the Amnesty Proclamation. That proposes no

guardianship of the United States over the reorganization of the governments, no law to prescribe who shall vote, no civil functionaries to see that the law is faithfully executed, no supervising authority to control and judge of the election. But if, in any manner, by the toleration of martial law lately proclaimed the fundamental law, under the dictation of any military authority, or under the prescriptions of a provost marshal, something in the form of a government shall be presented, represented to rest on the votes of one-tenth of the population, the President will recognize that, provided it does not *contravene* the proclamation of freedom and the laws of Congress; and, to secure that, an oath is exacted.

Now, you will observe that there is no guarantee of law to watch over the organization of that Government. It may combine all the population of a State; it may combine one-tenth only; or ten governments may come competing for recognition, at the door of the Executive Mansion. The Executive authority is pledged; Congress is not pledged. It may be recognized by the military power, and may not be recognized by the civil power, so that it would have a doubtful existence, half civil and half military, neither a temporary government by law of Congress nor a State government, something as unknown to the Constitution as the rebel Government that refuses to recognize it.

But, Mr. Speaker, let us regard its operation on a great fundamental measure, the existence of slavery, the condition of future peace. How does it accomplish the final removal of slavery? How does it accomplish the reorganization of the Government on the basis of universal freedom?

The only prescription is that the Government shall not *contravene* the provisions of that proclamation. Sir, if that proclamation be valid, then we are relieved from all trouble on that score. But if that proclamation be not valid, then the oath to support it is without legal sanction, for the President can ask no man to bind himself by an oath to support an unfounded proclamation or an unconstitutional law even for a moment, still less till it shall have been declared void by the Supreme Court of the United States. It is the paramount right of every American citizen to judge for himself, on his own responsibility, of his constitutional rights; and an oath does not bind him to submit to that which is illegal. If therefore he shall have taken the oath, he can, in good conscience as well as in good law, disregard it the next moment. So that, in point of fact, the law leaves us where the proclamation does. It adds nothing to its legality, nothing to its force.

But what is the proclamation which the new governments must not *contravene*? That certain negroes shall be free, and that certain other negroes shall remain slaves. The proclamation therefore recognizes the existence of slavery. It does just exactly what all the constitutions of the rebel States, prior to the rebellion, did. It recognizes the existence of slavery, and they recognized the existence of slavery; and, therefore, the old constitutions might be restored to-morrow without *contravening* the proclamation of freedom. Those constitutions do not say that the President shall not have the right, in the exercise of his military authority, to emancipate slaves within the States. They say nothing of the kind. They do not even establish slavery. There is not a constitution in all the rebel States that formally declares slavery to be the supreme law of the land. They merely recognize it just as the proclamation recognizes its existence in parts of Virginia and in parts of Louisiana. So that the one tenth of the population at whose hands the President proposes to accept and guaranty a State government can elect officers under the old constitution of their State in exactly the same terms and with exactly the same powers existing at the time of the rebellion, and may, under his proclamation, demand a recognition. No man will say that there is one word in their laws that contravenes what purports to be a paramount, not a subornate, order. So soon as the State government is recognized, the operation of the proclamation becomes merely a judicial question. The right of a negro to his freedom is a legal right divesting a right of property, and is to be enforced in the courts; and then the question is what the courts will say about the proclamation. Is it valid or invalid? Does it of itself confer a legal right to freedom on negroes who were slaves? Is it within the authority of the Executive? These are the only questions open under such a government; and how local State courts, created by the southern people, will decide such a question *no one* can doubt; for it is quite certain that the great mass of that population is devoted to the system of slave labor; and though if the question be whether they will give up slavery as the condition precedent to the restoration of a State government, they will abandon it, yet if it be whether they prefer to maintain or abolish slavery, there is not the least doubt that their voice would be almost unanimous for its maintenance. If they have the decision, we know what it will be already. It is therefore, under the scheme of the President, merely a judicial question to be adjudged by judicial rules and to be determined by the courts. It is a question whether each individual negro be free. It is a question whether the master has the right of seizure, or the negro can control himself. It is to be determined by the writ of *habeas corpus*. It is a question of personal right,

not a question of political jurisdiction. Its fate in the State courts is certain. Its fate in the courts of the United States under existing laws is scarcely doubtful. I do not desire to argue the legality of the proclamation of freedom. I think it safer to *make it law*. But I wish to admonish gentlemen who rely on Dunmore's proclamation for the right of a military commander to free slaves in a civil war, that no slave is known ever to have claimed his freedom under it, though, if valid, there must have been many persons so entitled, and the courts of Virginia and of the United States were all open to them for its enforcement and their protection. When they cite the opinions of John Quincy Adams it must be remembered that he is on both sides of the question. He wrote instructions to our minister denying the right to emancipate and claiming compensation of England for slaves carried off in the last war, and insisted upon the question being decided by the Emperor of Russia. And it is further a material consideration that under that claim by authority of the United States and in the name of that predecessor of Abraham Lincoln, England paid divers pounds sterling to the citizens of the United States for negroes she took, as he alleged, in contravention of the laws of war. If the proclamation free a slave, it diverts a right sanctioned by a law which he cannot repeal; and if it be not repealed, it would seem to protect the right it confers. Under the act of 1862 the President is authorized to use the negro population for the suppression of the rebellion; while the rebellion lasts, his proclamation in law exempts the slave from the duty of obeying his master; but after the rebellion is extinguished, the master's rights are in his own hands, subject only to the opinion of the courts on the legal effect of the proclamation, without a single precedent to sanction it, and opposed by the solemn assertions of our Government against the principle worked to authorize it. Gentlemen are less prudent or less in earnest than I am, if they will risk the great issues involved in this question, on such authorities before the courts of justice.

By the bill we propose to preclude the judicial question by the solution of a political question. How so? By the paramount power of Congress to reorganize governments in these States, to impose such conditions as it thinks necessary to secure the permanence of republican government, to refuse to recognize any governments there which do not prohibit slavery forever. Ay, gentlemen take the responsibility to say, in the face of those who clamor for speedy recognition of governments tolerating of slavery, that the safety of the people of the United States is the supreme law; that their will is the supreme rule of law, and that we are authorized to pronounce their will on this subject. Take the responsibility to say that we will revise the judgments of our ancestors; that we have experience written in blood which they had not; that we find now, what they darkly doubted, that slavery is really, radically inconsistent with the permanence of republican governments; and that being charged by the supreme law of the land, on our conscience and judgment to guaranty, that is, to continue, maintain and enforce, if it exist, to institute and restore when overthrown, republican governments throughout the broad limits of the Republic; we will weed out every element of their policy which we think incompatible with its permanence and endurance. The purpose of the bill is to preclude the *judicial* question of the validity and effect of the President's proclamation by the decision of the *political* authority in reorganizing the State governments. It makes the rule of decision the provisions of the State constitution, which, when recognized by Congress, can be questioned in no court; and it adds to the authority of the proclamation the sanction of Congress. If gentlemen say that the Constitution does not bear that construction, we will go before the people of the United States on that question, and by their judgment we will abide.

Gentlemen must deny the jurisdiction of Congress over the States where there are no recognized governments, or place a bound or limit to the discretion of Congress. Until gentlemen find such a limit to the discretion of Congress under the paramount duty imposed, not *conferred*, upon Congress to guaranty republican governments, until gentlemen draw their line of demarcation and show that Congress has not the jurisdiction to remove what it thinks incompatible with the permanence of republican governments, I shall rest the argument where it is now. When they shall have attempted to lay down their line of demarcation, I will be ready to meet them with such opinions of the founders of the Government and those who in their footsteps have most wisely expounded its provisions as I may be able to find.

And if the sentiments of State pride and State rights be touched by the assertion of this wide discretion, which men may deny but cannot expunge, I would admonish those who dislike it, that it is a jurisdiction which nothing but the dereliction of the States can wake into activity; and they who wish to exclude it from their limits have only not to give occasion for its exercise by renouncing obedience to the Constitution and pulling down their own State governments. But now the jurisdiction has attached in all the rebel States. Until Congress has assented, there is no State government in any rebel State, and none will be recognized except such as recognize the power of the United States. So that we come

down to this: whether we—and when I say we, I mean we upon this side of the House who are firmly, thoroughly, and honestly convinced that the time has come not merely to strike the arms from the hands of the rebels, but to strike the fetters from the arms of the slaves, and remove that domineering and cohesive power without which we could have had no rebellion, and which now is its animating spirit, and which will die when it dies—whether we will exert the power which the Constitution confers upon us, and whether in our judgment—not in the judgment of our enemies—who have a majority in this House and a majority in the Senate; in our judgment, who now represent a majority of the people of the United States; in our judgment, who now support the Executive in this great war, whether in our judgment it is not time to assert that authority.

And if it be time, then all I ask in conclusion is, that gentlemen will go and read that great argument of Daniel Webster in the Rhode Island case before the Supreme Court of the United States, where he met this semi-revolutionary attempt to count heads and call that the people, and maintained—and so the Supreme Court judged when it refused to take jurisdiction of the question—that the great political law of America is that every change of government shall be conducted under the supervising authority of some existing legislative body throwing the protection of law around the polls, defining the rights of voters, protecting them in the exercise of the elective franchise, guarding against fraud, repelling violence, and appointing arbiters to pronounce the result and declare the persons chosen by the people. And he says, greatly to the honor of the American people, it would take him to the going down of the sun to enumerate the instances in which almost every constitution in the United States has been changed without one ever having been changed by a revolutionary process, not under theegis of law, not guided by a pre-existing political authority. He maintained it to be the great fundamental principle of the American Government that legislation shall guide every political change, and that it assumes that somewhere within the United States there is always a permanent, organized legal authority which shall guide the tottering footsteps of those who seek to restore governments which are disorganized and broken down.

This bill is an effort to inaugurate in this great emergency, and to apply to the benefit of ourselves and our posterity this great principle of American political law which was expounded by the first greatest expounder of the Constitution.